

SPECIAL CIVIL APPLICATION No 6727 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

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ARUNKUMAR TRAMBAKLAL BHATT

Versus

CHAIRMAN UCO BANK

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Appearance:

MR IS SUPEHIA for Petitioner

MR KG VAKHARIA for Respondent No. 1, 2, 3, 4

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CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 23/11/1999

ORAL JUDGEMENT

This petition has been filed for quashing the punitive order dated 11.5.85 whereby the petitioner has been placed to lower stage of pay of Rs.900/- in the time scale of Junior Management Cadre scale-I with effect from 1.5.85 by the order of the Disciplinary Authority and subsequent order of the Appellate Authority dated 17th February, 1986 dismissing the appeal of the petitioner and confirming the punishment awarded by the disciplinary authority. In the alternative, the petitioner has prayed for a direction to extend the benefit of the circular dated 25th April, 1986 and for a

direction to the respondents to give credit of 30 days privileged leave or to pay the amount of encashment of the said leave.

2. The petitioner was initially appointed by the respondents as clerk at Bombay with effect from 19.4.65. Subsequently, the petitioner was selected as an officer in the year 1976 in the Junior Management (Grade-I). At the relevant time, the petitioner was holding the post of Officer, Junior Management Scale-I. The petitioner was charge-sheeted by an order dated 18th February, 1985 on the allegation that the petitioner presented an application dated 16.5.81 to the Manager of Bank, Bhopal branch for the transfer leave in order to bring his family from Ahmedabad. He purchased tickets dated 16.5.81 from Bhopala to Ahmedabad. Those tickets were verified by the Manager of Bhopal Branch of the Bank. The petitioner again presented an application dated 22.5.1981 to the Manager showing seven first class tickets dated 2.6.1981 for a train from Bhopal to Ahmedabad. The said tickets were verified by the Manager. On the basis of the tickets, TA bill was sanctioned to the tune of Rs.3127.70 ps. and the amount of TA bill was withdrawn by the petitioner. Subsequently, the bank came to know that the petitioner alongwith his family had not travelled on the first class ticket presented by him and that fact was confirmed by the Station Master vide letter dated 17.7.82. The petitioner had received illegal gain which led to believe that his integrity, honesty and devotion to the bank was doubtful and was unbecoming of a bank's officer. On second occasion, on 12th March, 1982, the petitioner submitted an application in request form for availing of LFC (LTC) from Bhopal to Baroda and vice versa and he requested for encashment of earned leave for one month. That encashment was granted by the Manager on 29th March, 1982. On 18.4.82, the petitioner brought seven tickets to the branch for verification and those tickets were verified by the official concerned. His train was scheduled to start on 30th April, 1982. Lateron it was revealed to the bank that the petitioner did not travel with the family in first class at all, while availing the said LFC. The Chief Booking Supervisor, Bhopal and Station, Superintendent, Baroda made it clear that the petitioner purchased tickets for travelling from Bhopal to Baroda and vice versa had been got cancelled on the very same day of issuing tickets and the amount was refunded to the party. On the basis of those tickets, the petitioner had taken advance of Rs.1800/- from the bank for the purchase of those tickets. The petitioner by not travelling with the family in the first class but

withdrawing the amount for tickets from the bank showed his malice to take the illegal gain, out of six tickets which made him unbecoming of a bank officer. The conduct of the petitioner led to the belief that his integrity, honesty and devotion to the bank were doubtful.

3. The article of charges were mentioned in the charge-sheet.

(A) Shri A.T.Bhatt is hereby charged that while submitting the T.A.Bill and L.F.C. bill as stated in Statement of Allegations, he has received the illegal gains out of the same which make him unbecoming of a Bank Officer.

(B) Shri A.T.Bhatt is hereby further charged that his integrity, honesty and devotion towards Bank are doubtful on the basis of the facts as stated in Statement of Allegations.

4. According to the petitioner, the petitioner replied the show cause notice on 15th March, 1985. Another letter dated 15.3.85 was also given by the petitioner to the Divisional Manager wherein he stated that whatever errors he committed, he begs pardon for the same with assurance and undertaking that he will not commit any such mistake which will in any way put his bank at loss. He will discharge his duties with utmost honesty, integrity and devotion towards the bank. It is stated by the petitioner in this Court that this letter has been obtained by the bank officials under compulsion and duress.

5. After considering the material on record and the admission of the petitioner, the disciplinary authority passed the order dated 11.5.85 awarding punishment as aforesaid. Thereupon the petitioner filed an appeal before appellate authority on 15.11.85. The appellate authority, after examining the material on record and confessional statement of the petitioner found no case for interference and dismissed the appeal by an order dated 17.2.86. Later on the petitioner filed his supplementary appeal dated 31.1.86 in continuation to the earlier appeal dated 15.11.85 and that supplementary appeal was received on 21.2.86. The department has not passed any order on that appeal. Thereafter, the petitioner moved a review petition before the reviewing authority. That Review petition has also been rejected. Being aggrieved by the orders of the disciplinary authority as well as of the appellate authority, has preferred this petition in this court.

6. The learned advocate for the petitioner

firstly pointed out from the order dated 16.2.91 of this court wherein the respondents were directed to produce TA bills and the letter dated 15.3.85 regarding confessional statement of the petitioner. The learned counsel for the petitioner submitted that the letter dated 15.3.85 is fictitious and planted one. No reliance can be placed on this letter. Certain items were also mentioned in TA bill. The respondents have not produced those documents. Hence, an adverse inference can be drawn against the respondents. The second contention of the learned counsel for the petitioner is that the supplementary appeal in continuation of the appeal filed has not been decided by the authority concerned. The petitioner also filed certain documents before reviewing authority, but the reviewing authority has not considered the material on record and has rejected the review petition. It is also submitted that the petitioner filed the reply dated 15.3.85 to the show cause notice which is an important piece of evidence, but that reply has not been considered by the authority concerned. In this connection, the learned counsel for the respondents pointed out that there is no material on record, neither the petitioner could show any material before the authority concerned nor before this Court that he has submitted the reply dated 15.3.85 on which he has relied upon. In fact, the letter of confessional statement dated 15.3.85 was submitted by the petitioner himself and that confessional statement has been considered by the disciplinary authority and a lenient view has been taken in awarding the punishment of lower stage of pay scale in the time scale of Junior Management scale from Rs.1600/- to Rs.900/-. It is further contended by the learned counsel for the petitioner that even if the confessional letter dated 15.3.85 is taken as an admission, that could be used as a piece of evidence in the inquiry. Without holding a full inquiry, the petitioner cannot be punished and as no inquiry was held, the punishment is illegal and against principles of natural justice. No person can be punished without holding an inquiry. In this connection, he relied on the case of Natwarbhai S.Makwana vs. Union of India reported in 1984 GLH, 791. As per Regulation 6(4) of United Commercial Bank Officers/Employees (Conduct) Regulations, 1976, the authority is required to record a finding in respect of each article of charge admitted by the officers/employees in its written statement and no finding has been recorded by the disciplinary authority regarding article of charge. The order of punishment is illegal and not sustainable in the eye of law.

7. The learned counsel for the petitioner

also pointed out from the circular dated 25.4.86 in which it is stated that if any employee or staff commits some irregularities regarding leave fair concession facility and the employee or staff makes a request in writing for condonation of their action, the authority is bound to condone the action and exonerate from all the charges. 400 persons have been given benefit of this circular letter. Hence, the petitioner is entitled for the benefit of such circular. The punishment is too harsh and the salary has been reduced from Rs.1620 to Rs.900 per month for a period of 13 years till the retirement and that comes to Rs. 3 lacs and if it is calculated with interest, then it would come to Rs. 7 lacs. The petitioner is also losing gratuity, pension etc. on the said amount.

8. The learned counsel for the respondents pointed out from the letter dated 5.10.82 whereby the petitioner was required to give complete details regarding tickets verified and TA bill taken by him. He had taken advance and submitted the bills for the trains which was cancelled. He also got the money of the tickets refunded. The said TA bill was passed by the branch for Rs.3127.70 ps. Subsequently, on inquiries made by the officers from the railway authority, it came to know that the petitioner had not commenced the journey and wrongfully obtained excess amount. The petitioner was directed by a letter dated 27th April, 1984 to deposit the amount. Then the petitioner was permitted to deposit that amount by a letter dated 15th May, 1984. The conduct of the petitioner was doubtful from the initial stage and he deposited the money after the explanation was required and the amount was deposited after about two years.

9. I have heard the learned counsel for the parties at length and gone through the relevant papers. So far as the order of this court dated 16.2.91 requiring the original letter dated 15.3.91 and TA bill in that respect is concerned, it appears that some statement was made by the learned counsel for the petitioner before this Court that the confessional letter dated 15.3.85 is a fictitious and concocted document and it has not been signed by the petitioner at all. The TA bill also includes certain tickets which were purchased by him subsequently. On the statement of the learned counsel for the petitioner, this Court wanted to see the original documents and hence the order was passed. But from the facts and circumstances, it is clearly revealed that the confessional letter dated 15.3.85 and TA bill are not fictitious or planted one by the department concerned.

The learned counsel for the petitioner showed a copy of the supplementary appeal which was received by the department on 21.2.86 wherein it is mentioned that the petitioner was called and given a typed letter in duplicate without date on 6.5.85 and was asked to sign and he signed. Further on 7.5.85, the petitioner was asked to put date as 15.3.85 which he did. This assertion made in the supplementary appeal clearly indicates that confessional letter dated 15.3.85 is signed by the petitioner himself and the endorsement regarding the date was also made by him. Thus, it cannot be said that this letter is fictitious and concocted one and planted by the department itself. Thus, in view of the facts and circumstances, I do not think it proper to summon original confessional letter dated 15.3.85 alongwith TA bill as requested by the learned counsel for the petitioner.

10. So far as the appeal filed by the petitioner against the order of punishment before the appellate authority is concerned, the appeal was decided on 17.2.86. Then the petitioner gave a supplementary appeal dated 31.1.86, but it was received in the department on 21.2.86. No law requires to pass an order on each and every document particularly when an appeal had already been decided by the order dated 17.2.86. The authority is not required to consider any subsequent appeal or representation and pass any appropriate order. The review petition was filed later on by the petitioner. The reviewing authority, after considering the merits has rejected the review petition of the petitioner. Under the law, the reviewing authority is not required to pass any speaking order or give any reasons for the rejection. Hence, the order of the reviewing authority cannot be said to be bad in law only on the ground that no reasons for rejection have been assigned by the reviewing authority or no speaking order has been passed.

11. The contention of the learned counsel for the petitioner that general rule is that no person can be punished without holding any inquiry and giving an opportunity to the parties to lead their evidence. In the present case, after the charge-sheet, the disciplinary authority has passed the punishment order without holding the inquiry, as such, the order is illegal, has no force at all. It is true that a person cannot be punished without holding an inquiry, but where the rules and regulations provide that the punishment can be awarded on the basis of the confessional statement, then it is not necessary for the department to hold an inquiry. In the present case, the proviso to rule 6(4)

of United Commercial Bank Officers/Employees (Conduct) Regulations, 1976 reads as under:

"Provided that it may not be necessary to hold an inquiry in respect of the articles of charge admitted by the officer employee in his written statement but shall be necessary to record the findings on each such charge."

Thus, special procedure has been provided by the statute of the bank concerned, wherein the inquiry is not required to be held where the articles of charges has been admitted by the officer concerned. In the present case, the charges have been already admitted by the petitioner wherein the petitioner himself has stated that whatever errors he has committed, he begs pardon for the same and with an assurance and undertakings that he would not commit any such mistake which will in any way put the bank at loss. He will also discharge his services with utmost integrity, honesty and devotion in the bank. Thus, the petitioner has admitted every item of charge and for that purpose, he begs pardon. As such, the disciplinary authority has not committed any error in passing the punishment order relying on the confessional statement made by the petitioner.

12. The contention of the learned counsel for the petitioner that the petitioner is also entitled for the benefit of the circular dated 25.4.1986 for the condonation of the error committed by the petitioner and the petitioner should have been exonerated by the department concerned. This circular letter has come in force later on i.e. on 25th April, 1986, and more particularly prior to the disciplinary proceedings initiated against the petitioner and in which he was awarded punishment on 18.2.85 and appeal was also dismissed on 17.2.86. As such, the petitioner is not entitled for the benefit of the circular dated 25.4.86. Moreover, it is a discretion of the department concerned. Considering the facts and circumstances, the authority concerned can condone the lapses committed by the employee. This circular letter has no statutory force for enforcement. Hence, this Court is unable to enforce the said circular dated 25.4.86 for the benefit of the petitioner as claimed by him thereunder. Thus, this contention of the learned advocate for the petitioner has no force at all.

13. As regards the punishment, the contention of the learned counsel for the petitioner is that the punishment is too harsh and the salary was reduced from Rs.1620/- to Rs.900/- per month for a period of 13 years

till the date of retirement. So far as this contention is concerned, the disciplinary authority, after considering the gravity of the offence and the lapses, confessional statement made by the petitioner, taking a lenient view, has awarded this punishment which cannot be said to be too harsh or excessive.

14. Thus, in view of the above discussion, I hold that this petition has no merits and is accordingly, dismissed. Rule is discharged with no order as to costs.

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